

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter Of )

4 )  
5 MUR 6586 )

6 Linda McMahon for Senate 2012 and )

7 Sunghi Pak Frauen as Treasurer )

8 Linda McMahon )

9 World Wrestling Entertainment, Inc. )  
10 )

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

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12 **GENERAL COUNSEL'S REPORT**  
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14 Under the Enforcement Priority System, the Federal Election Commission (the  
15 "Commission") uses formal scoring criteria as a basis to allocate its resources and decide which  
16 matters to pursue. These criteria include without limitation an assessment of the following  
17 factors: (1) the gravity of the alleged violation, taking into account both the type of activity and  
18 the amount in violation; (2) the apparent impact the alleged violation may have had on the  
19 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends  
20 in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"),  
21 and developments of the law. It is the Commission's policy that pursuing relatively low-rated  
22 matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss  
23 cases under certain circumstances or, where the record indicates that no violation of the Act has  
24 occurred, to make no reason to believe findings. The Office of General Counsel ("OGC") has  
25 determined that MUR 6586 should not be referred to the Alternative Dispute Resolution Office.  
26 Also, for the reasons set forth below, OGC recommends that the Commission find no reason to  
27 believe with regard to all of the respondents in MUR 6586.<sup>1</sup>  
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Complaint Filed: June 1, 2012. Response by  
Linda McMahon, Linda McMahon for Senate 2012, and Sunghi Pak Frauen in her official capacity as treasurer  
Filed: June 27, 2012. Response by World Wrestling Entertainment, Inc. Filed: June 27, 2012.



1 In this matter, Complainant Elizabeth S. Ellis, as publisher of the *Journal Inquirer*, a  
2 newspaper in Manchester, Connecticut, alleges that World Wrestling Entertainment, Inc.  
3 (“WWE”), violated the Act and Commission regulations by “rendering corporation assistance” to  
4 the Senate campaign of Linda McMahon. Compl. at 1. Specifically, the Complaint alleges that  
5 the corporate assistance was in the form of a letter sent by WWE Senior Vice President Brian  
6 Flinn, dated May 24, 2012, “threatening [the *Journal Inquirer*] with a libel lawsuit for criticizing  
7 Linda McMahon in two political commentaries written by [managing editor Chris] Powell and  
8 published in the *Journal Inquirer* on January 28-29 and May 21, 2012, respectively.” *Id.*  
9 Additionally, the Complaint concludes that because neither commentary mentioned WWE by  
10 name, “the only purpose of Flinn’s letter is . . . to use WWE to defend the candidate and to seek  
11 to have a chilling effect on journalists in Connecticut who might otherwise criticize Linda  
12 McMahon during her campaign.”<sup>2</sup> *Id.*

13 WWE filed a response asserting that the Complaint failed to provide a factual basis for  
14 any violation of the Act and claims that “the Complaint is a plain attempt to harass WWE for  
15 responding to [the *Journal Inquirer*’s] libelous statements about WWE by its editor, Mr. Chris  
16 Powell.” WWE Resp. at 1. *Id.* WWE also states that it has a strong interest in “not having its  
17 reputation damaged by false statements of fact about its business, regardless of the political  
18 happenings in the State of Connecticut.” *Id.* at 2. On January 28, 2012, and May 21, 2012, the  
19 *Journal Inquirer* published commentaries by Powell, which, according to WWE, contained  
20 “false statements of fact which were damaging to WWE’s business interests and reputation.” *Id.*

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<sup>2</sup> Ellis avers that Powell wrote two political commentaries “directed to the U.S. senatorial campaign of Linda McMahon, who founded and owned with her husband World Wrestling Entertainment,” “which is owned and controlled by her husband, Vincent McMahon.” Compl. at 2. Ellis’s statement concludes: “I do not believe that the *Journal Inquirer* libeled WWE and the letter is meant to discourage our right to comment on Mrs. McMahon.” *Id.*

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1 On May 24, 2012, WWE Senior Vice President Brian Flinn wrote the *Journal Inquirer* on behalf  
2 of WWE, addressing Powell's commentaries. *Id.* According to the WWE, this letter requested a  
3 retraction of the offending statements and stated that if the *Journal Inquirer* did not print a  
4 retraction, the WWE would seek a legal remedy. *Id.* The WWE Response attests that Flinn's  
5 letter was not related to McMahon's candidacy and that "WWE directed its retraction request  
6 letter to the *Journal Inquirer* to protect its independent interest in its business reputation and  
7 because Powell and the *Journal Inquirer* falsely implied that WWE was in the 'business of  
8 pornography.'" *Id.* at 8. The WWE Response concludes by stating that the letter to the *Journal*  
9 *Inquirer* was "wholly independent of any federal candidate or campaign for public office" and  
10 was made "in an effort to protect its own business interests." *Id.* at 9-10. As such, the letter was  
11 neither a contribution to nor expenditure for McMahon for Senate, and it also was not an  
12 impermissible contribution resulting in a coordinated communication. *Id.*

13 The WWE Response also states that it has "remained silent and continues to remain silent  
14 on issues related to the U.S. Senate race." *Id.* at 2. Following the commentaries at issue,  
15 however, WWE felt that Powell had made a "direct attack on WWE's corporate reputation," by  
16 making "false statements of fact about the nature of WWE's business which WWE considers to  
17 be libelous" and that "the WWE was obligated to respond to protect its reputation." *Id.* WWE  
18 asserts that the statement in Powell's January 28, 2012, editorial describing "the pornography  
19 and mock violence of the wrestling business" was a direct attack on its corporate reputation. *Id.*<sup>3</sup>

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<sup>3</sup> The WWE Response further states that Powell's May 21, 2012 editorial described McMahon's wealth, gained as CEO of WWE, as being "derived from the business of violence, pornography, and general raunch." WWE Response at 3. Subsequently, Flinn wrote the *Journal Inquirer* on May 24, 2012, stating that if the *Journal Inquirer* did not print a retraction, the WWE would seek a legal remedy. *Id.* at 3-4. WWE's Response also notes that the Complaint "neglects to advise the Commission that WWE's retraction [request] letter was sent because her paper falsely implied that WWE was in 'the business of pornography.'" *Id.* at 7.



1 Linda McMahon, Linda McMahon for Senate 2012, and Sunghi Pak Frauen in her  
2 official capacity as treasurer, (collectively, "the Committee") jointly filed a response stating that  
3 the Complaint failed to allege a specific violation of the Act by the Committee and "does not  
4 allege that the Respondents took any actions that would violate the Act or Commission  
5 regulations." Committee Resp. at 1-2. The Committee Response maintains that WWE, in  
6 seeking a retraction from the *Journal Inquirer*, was merely defending itself against statements  
7 that mischaracterized WWE's business activities and emphasizes that WWE's retraction letter to  
8 the *Journal Inquirer* did not reference McMahon or McMahon's candidacy for the Senate. *Id.* at  
9 2. The Committee asserts that it could not have accepted a corporate contribution "when the  
10 exchange between WWE and the *Journal Inquirer* had nothing to do with the Respondents." *Id.*  
11 Further, "WWE's retraction letter to the *Journal Inquirer* was clearly sent for bona fide  
12 corporate purposes and not for the purpose of influencing a federal election." *Id.* at 3.

13 The Act prohibits corporations from making contributions in connection with a federal  
14 election.<sup>4</sup> 2 U.S.C. § 441b(a). It also prohibits any candidate from knowingly accepting or  
15 receiving any contribution from a corporation, or any officer or any director of a corporation  
16 from consenting to any contribution by a corporation to a federal candidate. *Id.*

17 The available information does not suggest that the WWE made a corporate contribution  
18 to the McMahon Committee by requesting a retraction of what the WWE ostensibly considered  
19 to be libelous statements against the WWE. WWE asserts that its sole intent was to defend its

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<sup>4</sup> Contributions include any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services, or anything of value to any candidate or campaign committee in connection with a federal election. 2 U.S.C. § 441b(b)(2). In-kind contributions must be reported pursuant to 2 U.S.C. § 434(b). The corporate ban on contributions to federal candidates also includes in-kind contributions. 11 C.F.R. § 114.2(c). Corporations and their officers and agents may not use corporate resources to make or facilitate the making of contributions to federal candidates and political committees. 11 C.F.R. § 114.2(f)(1).



1 business reputation. Indeed, the letters submitted by the WWE did not reference Ms. McMahon,  
2 let alone advocate for her election or solicit contributions to her campaign, and instead focused  
3 on the *Journal Inquirer*'s description of the WWE. The Committee similarly asserts that the  
4 exchange between WWE and the *Journal Inquirer* had nothing to do with McMahon's campaign  
5 and, therefore, was not a corporate contribution from WWE to the Committee. The activity in  
6 question does not appear to be for the purpose of influencing an election, or otherwise solicit,  
7 make, or accept contributions on behalf of a federal candidate. Therefore, we conclude that the  
8 letters from WWE to the *Journal Inquirer* did not constitute contributions or expenditures under  
9 the Act.

10 Accordingly, the Office of General Counsel recommends the Commission find no reason  
11 to believe that Linda McMahon, Linda McMahon for Senate 2012 and Sunghi Pak Frauen in her  
12 official capacity as treasurer, and World Wrestling Entertainment, Inc., violated the Act or  
13 Commission regulations with respect to the allegations in this matter. This Office also  
14 recommends the Commission approve the attached Factual & Legal Analysis and the appropriate  
15 letters, and close the file.

16  
17 **RECOMMENDATIONS**

- 18 1. Find no reason to believe Linda McMahon violated the Act or Commission  
19 regulations with respect to the allegations in this matter;  
20  
21 2. Find no reason to believe Linda McMahon for Senate 2012 and Sunghi Pak Frauen as  
22 treasurer violated the Act or Commission regulations with respect to the allegations in  
23 this matter;  
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25 3. Find no reason to believe World Wrestling Entertainment, Inc. violated the Act or  
26 Commission regulations with respect to the allegations in this matter;  
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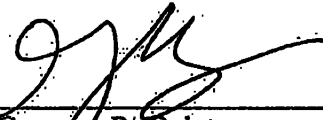


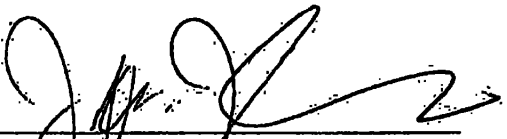
4. Approve the attached Factual & Legal Analyses and the appropriate letters; and

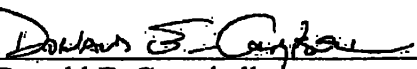
5. Close the file.

10/22/13  
Date

BY:

  
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